IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(***Special Original Jurisdiction***)

MONDAY, THE FOURTH DAY OF JULY
TWO THOUSAND AND FIVE

P R E S E N T

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

* * *

WRIT PETITION NO.14265 of 2005

Between:

Abdul Rahman S/o Md. jahangir,
R/o Sirpur Town, Adilabad District 504 299

.... PETITIONER

AND

1. The Executive Officer, Grampanchayat, Sirpur Town, Adilabad District
2. The District Panchayat Officer, Adilabad, Adilabad district

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ more in the nature of Mandamus or any other appropriate Writ declaring the action of the respondent No.1 in granting of house construction permission to Abdul Jabbar over the petitioner's part of the plot bearing No.33 Sirpur Town, Adilabad District as arbitrary, illegal against the principles of natural justice and violative of Article 14 of the Constitution of India and be pleased to pass such other order or orders as this Hon'ble court deems fit and proper in the interest of justice.

Counsel for the Petitioner: MR.CHINDAMANJANEYULU

Counsel for the Respondents: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court made the following at the admission stage :(Order follows 2nd page)

O R D E R :

This writ petition is filed seeking to declare the action of the first respondent in granting of house construction permission to Abdul Jabbar over the petitioner's part of the plot bearing No.33, Sirpur town, Adilabad district, as arbitrary, illegal, and violative of Article 14 of the Constitution of India.

The case of the petitioner is that in the year 1983 he purchased a plot bearing no.33 in survey no.538 admeasuring 457.70 sq.ft., situate at Sirpur town, Adilabad district from the first respondent through a transfer of sale deed for a valid sale consideration of Rs.250/-. Likewise, one Mr.Abdul Jabbar also purchased a plot bearing no.34 from the first respondent in the year 1983, who is his neighbour as per the plan of the first respondent, which was issued by the Director of Town Planning.

The learned counsel for the petitioner seeks to contend that now Mr. Abdul Jabbar, who obtained permission from the first respondent is going to construct a house over the part of land of the petitioner, which is highly objectionable to the petitioner.

The learned counsel for the petitioner further seeks to contend that in spite of the

petitioner submitting his objection application to the first respondent on 24-6-2005 but the first respondent instead of looking into the objections raised by the petitioner colluded with Mr.Abdul Jabbar and did not stop the illegal construction affecting part of the plot of the petitioner.

When the matter was brought to the notice of second respondent, no action is initiated nor any attention was paid to the objection petition dated 24-6-2005. Therefore, the petitioner filed the present writ petition challenging the action of the first respondent in granting construction permission to his adjacent owner, Mr.Abdul Jabbar, in his plot, who is going to construct the house over his part of the plot bearing No.33 even after submitting objection petition.

After hearing both sides, I am not able to appreciate the contentions raised by the learned counsel for the petitioner, who is seeking mandamus to declare the action of the first respondent in granting house construction permission to Mr.Abdul Jabbar over the petitioner's plot bearing no.33, Sirpur town, Adilabad district as arbitrary, illegal and against the principles of natural justice.

The relief sought in this writ petition cannot be considered in the writ filed under Article 226 of the Constitution of India, as it has to be considered and decided by a competent civil court after recording both oral and documentary evidence to the effect that whether the respondents have granted house construction permission to Mr.Abdul Jabbar and whether Mr.Abdul Jabbar made any construction over any part of plot no.33 of the petitioner. These are purely disputed questions of fact, which cannot be gone into in this writ petition. Therefore, I see no reason to entertain the writ petition. However, the first respondent is directed to consider and dispose of the

objection petition dated 24-6-2005 submitted by the petitioner within four weeks from the date of receipt of a copy of this order and pass appropriate orders on merits and in accordance with law, uninfluenced by any of the observations made in this order, after affording reasonable opportunity of hearing the petitioner and if the petitioner is aggrieved by any of the orders passed by the first respondent, he is at liberty to approach the second respondent for taking further steps.

With the above direction, the writ petition is dismissed at the admission stage. No costs. However, this order does not preclude the petitioner in pursuing all other efficacious remedies available to him under law.

JULY 04th, 2005. ----------

ISL ELIPE DHARMA RAO, J.

To

1. The Executive Officer, Gram Panchayat, Sirpur Town, Adilabad District
2. The District Panchayat Officer, Adilabad, Adilabad district.

3. Two CCs to Govt.Pleader for Panchayat Raj &Rural Development

High Court Buildings, Hyderabad. (OUT).

4. One CC to Mr.CH.ANJANEYULU, (6976), Counsel for the Petitioner.

5. Two CD Copies.